

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

PLAINTIFF'S MOTION TO AMEND COMPLAINT  
AND TO DROP A DEFENDANT

Pursuant to Fed. R. Civ. P. 15(a)(2) and 21, plaintiff Mountain Valley Pipeline, LLC (“MVP”), by counsel, moves the Court for leave to amend its complaint and to drop a defendant on the following grounds:

1. MVP filed this action on November 8, 2023, against two defendants, Daniel Guidry (“Guidry”) and Ashley Stecher Wagner (“Wagner”). Guidry attached to the right of way in the Jefferson National Forest on October 7, 2023, and Wagner attached to equipment in the Jefferson National Forest on October 16, 2023.

2. After the complaint was filed, MVP learned the identities of nine individuals who supported the unlawful entry and attachment by Wagner. MVP filed a separate action against these individuals. *Mountain Valley Pipeline, LLC v. Ateto, et al.*, Case No. 7:23-cv-00809.

3. At the hearing in this case on March 2, 2024, the Court granted in part the motion to dismiss of Guidry and Wagner. Specifically, the Court ruled that the

complaint fails to state sufficient facts to support the claims for conspiracy. The Court informed MVP that it could move the Court for leave to amend.

4. In this motion, MVP seeks leave to amend the complaint in this case to state additional facts in support of its claim of conspiracy against Guidry. A copy of MVP's proposed amended complaint (without exhibits) is attached as Exhibit 1.

5. In its amended complaint, MVP also proposes to drop, without prejudice, Wagner as a defendant in this case and to add Wagner as a defendant in the *Ateto* case. MVP submits that it would be more efficient to address the incident on October 7, 2023, in this case, and to address the incident on October 16, 2023, in the *Ateto* case, rather than have two different cases involving the same incident.

6. The proposed amendment and dropping of Wagner are in the interest of justice, and they will not prejudice the defendants. *See Steinburg v. Chesterfield Cty. Plan. Comm'n*, 527 F.3d 377, 390 (4th Cir. 2008) (holding that leave to amend should be freely given unless the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile); *Johnson v. Oroweat Foods Co.*, 785 F.2d 503, 509 (4th Cir. 1986) (same); *Davis v. Piper Aircraft Corp.*, 615 F.2d 606, 613 (4th Cir. 1980) ("[A]bsence of prejudice, though not alone determinative, will normally warrant granting leave to amend."); *Wall v. Chesapeake & O. Ry. Co.*, 339 F.2d 434, 434 (4th Cir. 1964) (holding denial of leave to amend was abuse of discretion where amendment would not result in prejudice or unfairness to defendant); *see also Martinez v. Duke Energy Corp.*, 130 F. App'x 629, 638 (4th Cir. 2005) ("This rather conclusory assertion of prejudice, however, is also an

insufficient basis upon which to deny the Rule 21 request.”); *Koehler v. Dodwell*, 152 F.3d 304, 308-09 (4th Cir. 1998) (applying similar standard to motion under Rule 15 and Rule 21).

7. MVP has consulted with counsel for Guidry and Wagner and determined that they do not oppose this motion.

8. A proposed order is attached as Exhibit 2.

WHEREFORE, MVP moves the Court for leave to amend and to drop a party.

Respectfully submitted,

MOUNTAIN VALLEY PIPELINE, LLC

By Counsel

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By /s/ Wade W. Massie  
Wade W. Massie

CERTIFICATE OF SERVICE

I hereby certify that, on March 18, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record.

/s/ Wade W. Massie  
Wade W. Massie